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OFFICE OF THE SECRETARY

January 22, 2001

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via Hand Delivery

Magalie Roman Salas, Secretary  
Office of The Secretary  
Office of Managing Director  
Federal Communications Commission  
445 Twelfth Street, SW, TWA325  
Washington, DC 20554

Re: Ex Parte Presentation of Bachow/Coastel,  
L.L.C., WT Docket No. 97-112, CC Docket No. 90-6

Dear Ms. Salas:

Bachow/Coastel, L.L.C. ("Bachow/Coastel"), by its attorneys, herewith files with the Commission an original and one copy of this *ex parte* letter to ALLTEL Corporation ("ALLTEL"), which Bachow/Coastel copied to the Commission. Bachow/Coastel herewith files two additional copies of this letter with the Commission due to the second docket number attached to this proceeding. Bachow/Coastel does not believe that its attached letter to ALLTEL constitutes an *ex parte* filing under the Commission's rules and precedent, but is filing this notification with the Commission out of an abundance of caution.

If you have any questions concerning this matter, or if you require additional information, kindly contact Bachow/Coastel's undersigned counsel.

Cordially,

Steven J. Hamrick

Counsel to Bachow/Coastel, L.L.C.

Attach.

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# BACHOW

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INDIVIDUAL BACHOW INVESTORS IV, L.P.

January 12, 2001

**VIA FACSIMILE: (813) 866-1000**  
**ORIGINAL VIA FIRST CLASS MAIL**

Paul Bowersock  
Market Area President – Florida  
ALLTEL Communications  
14055 Riveredge Drive  
Suite 600  
Tampa, FL 33637

Dear Paul:

I am in receipt of your January 5<sup>th</sup> letter. I agree we should try to summarize our discussions, as I think your letter misses a number of key points that we discussed:

1. Our conversations regarding the Mobile Bay site have been an attempt to measure the amount of traffic that ALLTEL would capture if it extended its service area boundary ("SAB") contours into Coastel's protected cellular geographic service area ("CGSA") (just as GTE Wireless of the South, Inc. did when it was blatantly infringing on our service area). The decision of the FCC's Enforcement Bureau should put that issue to rest. You have made it clear that you want to avoid reconfiguring your sites to comply with the rule. Instead, you want to turn on the Gulf Shores, AL, Gulf Shores Beach, AL and Dauphin Island, AL sites (the "Mobile Bay sites") and compensate us for the infringement. The issue we have been discussing is (a) what percentage of the traffic from the Mobile Bay sites represents traffic from the Gulf ("Gulf Percentage") and (b) once measured, what are the appropriate payments that we are due from the infringement. We have discussed that an equitable measure would be the Gulf Percentage multiplied by the total minutes of use from the Mobile Bay sites in question, multiplied by some all inclusive average rate per minute.

Your comments on Mobile Bay are misdirected. ALLTEL would be extending its SAB contours into Coastel's CGSA, not *vice versa*. What we need to measure is what percentage of the minutes of use of the Mobile Bay sites reflects traffic emanating from Coastel's CGSA. This traffic would consist of your customers who would be otherwise roaming on our system, third parties roaming on our system and our own customers which GTE was improperly picking up. You have provided some information from which you believe we can extrapolate the correct percentage. We have no independent way of verifying this information. Even though the number you proffer is much lower than that represented by GTE in FCC filings on this very issue, we are willing to try to find some acceptable middle ground.

■ BACHOW & ASSOCIATES, INC.  
3 BALA PLAZA EAST, 5TH FLOOR  
BALA CYNWYD, PA 19004  
TELEPHONE: 610.660.4900  
FAX: 610.660.4930  
WEB SITE: [www.bachow.com](http://www.bachow.com)

As far as using access and feature revenue to compute an average rate per minute, we still believe the proper measure is total system revenue (including feature and access) divided by total switched minutes. This avoids the issue arising from rate plans that include "free" or "bundled" minutes in access plans. The methodology does not imply that your customers are in fact using service in the Gulf itself. It is merely a surrogate for what we would be charging those roamers. As you know your average rate per minute is lower than our roaming rate. **In effect, the solution we have proposed gives the roamers (including your customers) the benefit of the lower land rates. Accordingly, a Gulf-wide solution of this type would clearly address FCC concerns regarding rates. This type of agreement can be accomplished, and is encouraged, by the FCC's current rules.**

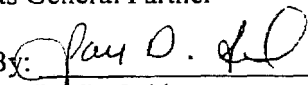
2. As far as the Mexico Beach issues are concerned, we feel very strongly that there is clearly an implied covenant not to frustrate the purpose of our agreement. This implied covenant is exactly what ALLTEL's STA at Laguna Beach violates. As I noted in my prior letters, by getting an STA to operate a site at Laguna Beach, FL, ALLTEL is taking traffic from the Mexico Beach site. This is a breach of our Mexico Beach Agreement. We are therefore entitled to the same sharing percentage on the overlapping portion of the Laguna Beach site as we receive under the Mexico Beach Agreement. You asked how this is to be measured. It seems appropriate to look at the minutes of use at Mexico Beach prior to activation of the Laguna Beach site, and then increase those minutes of use going forward based on the average growth rate of the Laguna Beach site and the Mexico Beach site after the Laguna Beach activation (with some appropriate adjustment if these sites are re-engineered in any way, including but not limited to, by splitting cells and/or directionalizing antennas).

I hope that this will serve as the summary that you desire. I am available to speak with you in order to settle any outstanding issues that need resolution. Please feel free to call me with any questions or concerns at 610-660-4900.

Sincerely,

**BACHOW/COASTEL, LLC**

By: Bachow/Coastel, Inc.  
Its General Partner

By:   
Jay D. Seid  
Vice President

cc: Steve Hamrick Esq., *Fleischman & Walsh*  
Distribution List (*Attached*)

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